

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Guy Greene, *formerly known as*
Ozhawaaskoo Giishig,

Civil No. 18-428 (DWF/DJF)

v.

Petitioner,

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Jodi Harpstead, Tim Walz, Keith Ellison,
and Kevin Moser,

Respondents.

The above matter comes before the Court upon the Report and Recommendation (“R&R”) of Magistrate Judge Dulce J. Foster dated October 5, 2022. (Doc. No. 13.) The R&R recommends that Petitioner Guy Greene’s motion to amend and “motion to not dismiss the action for failure to prosecute” be granted. Additionally, the R&R recommends that Greene’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 be denied and that this action be dismissed without prejudice. Finally, the R&R recommends that the Court deny Greene’s motion to appoint counsel. Greene now files a motion to dismiss the action without prejudice. (Doc. No. 14.) Greene does not appear to object to the R&R. Rather, Greene’s request for dismissal without prejudice is entirely consistent with the R&R’s recommendation.

The factual background for the above-entitled matter is clearly and precisely set forth in the R&R and is incorporated by reference. Based upon the R&R and upon all of

the files, records, and proceedings herein, the Court hereby adopts the R&R of Magistrate Judge Foster and denies Greene's motion to dismiss as moot.

ORDER

Based upon the record before the Court, and the Court being otherwise duly advised in the premises, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Dulce Foster's Report and Recommendation (Doc. No. [13]) is **ADOPTED**.
2. Petitioner Greene's motion to amend (Doc. No. [5]) is **GRANTED** and the amended petition for writ of habeas corpus (Doc. No. [5-1]) is the operative pleading in the matter.
3. Greene's amended petition for writ of habeas corpus under 28 U.S.C. § 2254 (Doc. No. [5-1]) is **DENIED WITHOUT PREJUDICE**.
4. Greene's motion to not dismiss for failure to prosecute (Doc. No. [9]) is **GRANTED**.
5. Greene's motion to appoint of counsel (Doc. No. [10]) is **DENIED**.
6. Greene's motion to voluntarily dismiss the action pursuant to Federal Rule of Civil Procedure 41(a) without prejudice (Doc. No. [14]) is **DENIED AS MOOT**.
7. This matter is **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 1, 2022

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge